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INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

"There is no human rights paradise. Every country has still some goals to achieve." With these words Elizabeth Evatt, a member of the Human Rights Commission in Australia, describes the current situation of human rights worldwide. Other issues such as freedom of expression and women's rights are also discussed.

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ANNOUNCER: From United Nations Headquarters in New York, this is **World Chronicle**, an unedited interview programme about major global issues. Here now to introduce our guest is the host of today's **World Chronicle**.

LITTLEJOHNS: I'm Michael Littlejohns, and this is **World Chronicle**.

The International Covenant on Civil and Political Rights recognizes that everyone has the right to life, liberty and security. It prohibits torture, cruel or degrading treatment or punishment, and the arbitrary deprivation of life. One hundred and forty States have ratified or acceded to the Covenant. The United Nations Human Rights Committee periodically examines reports submitted by States on their promotion and protection of civil and political rights.

Our guest today is Elizabeth Evatt, who is currently a Human Rights Commissioner in Australia. Ms. Evatt is also a member of the United Nations Human Rights Committee. Joining me to talk with Ms. Evatt are Thalif Deen of *Inter Press Service* and Afsane Bassir-Pour of *Le Monde*.

Ms. Evatt welcome to **World Chronicle.**

EVATT: Thank you.

LITTLEJOHNS: Ms. Evatt, yours is a famous name in the United Nations. Herbert Evatt was one of the important figures of the early days of the Organization, the President of the General Assembly and, I believe, he was your uncle. You have an important responsibility now. Tell us a bit about the Human Rights Committee -- how you go about your work, these reports that you examine -- what can you do to further the promotion of human rights?

EVATT: Yes. But first, I should explain that we are an independent committee. That is to say, all our members have such experience as judicial -- some of them have been judges, professors of law, and so on, and they are elected by the States that ratified the Covenant. But once elected, they don't represent their own country. They represent their own conscience as persons committed to human rights. And in that capacity, the Committee requires States to present regional reports to us and when we receive those reports, we invite the State to come and meet with us during one or two meetings, when we ask questions -- we cross examine, in a sense -- the State about its human rights records in implementing the Covenant. We ask for response from the State and then we assess that State. We draw up a concluding comment in which we set out what we see as the positive achievements and the negatives. Our concerns and our recommendations as to what they should do to ensure everyone in their country enjoys

human rights and then they come back a few years later and we hope they'll tell us of progress in our areas of concern.

LITTLEJOHNS: But how can you prove whether they have responded to your comments? Do you have some kind of a monitoring system?

EVATT: Well, we can do -- we monitor when they return. They return a periodic input ...

LITTLEJOHNS: But do you have to take their word for it that they have done something, right?

EVATT: Ah, well, we have -- we can do our own research and we can receive information from other sources as to whether they have done what they say ...

LITTLEJOHNS: You mean private human rights groups, for example, human rights watch...

EVATT: ... having the material which we use to ask questions. We don't necessarily rely on that as the full story. But it allows us to put questions to the State and we ask them to produce copies of new legislation or decisions that they have made. The other thing we do, of course -- I did not mention this before -- is we deal with individual complaints by people in more than 90 countries which have accepted this -- complaints that their country has violated a particular right of an individual.

DEEN: They can write to you individually -- direct to the Committee?

EVATT: Yes, an individual can write to the Committee and some people write on their own behalf maybe from jail even and some write through the -- we ask the State to respond and we consider all the material that we have and reach a view as to whether the State violated that right and then we suggest what remedy might be available to the person, if the right is being violated.

BASSIR-POUR: What happens to States who don't submit reports? This year, for example, at the last session, you only have four reports. It seems like a very small number of reports.

EVATT: We should have had another report but one State, that was due to report, dropped out at the last minute. We have, at the moment, about 23 reports waiting consideration and it will take us several sessions to go through those. But you're right -- some States have failed to submit reports. This is a problem throughout the United Nations Human Rights system -- States who failed to report. We haven't got specific way to respond to that, but we are considering whether there are options that we could adopt. We haven't adopted any way to deal with it ...

BASSIR-POUR: If I may just follow -- you said that you receive information from individuals, also from non-governmental organizations. Let's say a State that hasn't submitted report year in, year out but that has been the subject of complaints. Do you then ask that country to come to the Committee and explain or what's the procedure?

EVATT: Well, what we do is we invite the representative of that country to meet with representatives of the Committee and, in their discussions, which could take place here in New York or in Geneva, we impress upon them the importance of putting in a written report. We may refer to our knowledge of the situation in the State but we ask them, please, could they respond by putting in a report within a certain date. And sometimes, yes, they will respond.

DEEN: I believe your Committee has been very critical of countries which violate human rights. But your Committee itself does not have power of enforcement. So how effective is a Committee without power of enforcement?

EVATT: Are you talking of individual complaints?

DEEN: Right. Against the State.

EVATT: Well, we see that the State has accepted the obligation under the Covenant. When they ratified, that's an international law obligation that they have undertaken. The Covenant is, that if an individual's right is violated, the State must provide a remedy. So they have already an obligation to provide a remedy for every violation of individual rights. So that when the Committee itself decides that there's been a violation, the State, we consider, has an obligation to respond in that way because of their obligation to give remedies when rights are violated.

DEEN: But do most countries remedy, or do they ....

EVATT: We are studying and analysing the response. Because once we've given a decision to the State, we don't stop there. We have a programme to follow up to see what States have done following a determination on the matter. We're collecting that material and there are many positive things to report -- people who have been released, compensation that has been given, laws that have been changed in some cases, but, yes, it's true, there are some States that have not responded positively and that's a matter for regret. And we report that in our Annual Report. You can see that it's all set out there.

DEEN: But you don't have a staff of your own to chase these cases, do you?

EVATT: There's a Secretariat staff at the Office of the High

Commissioner for Human Rights in Geneva who serves our needs, but due to the failure of some States to pay the contributions to the UN, the resources of the United Nations are very limited and this has affected the ability of the human right treaty bodies to be more effective in their work. For example, our own staff have also has been reduced in the last few years whereas our workload and our mandate is increasing. So, yes, lack of resources makes us less effective.

LITTLEJOHNS: Ms. Evatt, one of these States is, of course, the United States, which has not ratified or acceded to the Covenant, I believe. Does that mean ..

EVATT: No, it has -- it is a party to the Covenant.

LITTLEJOHNS: It is a party? In the literature that I have here, it is not. Is that fairly recent?

EVATT: The Covenant on Civil and Political Rights, no, it's not recent. I've reported to Committee in 1995, I think -- three years ago.

LITTLEJOHNS: Well, I stand corrected on that because I'm reading the materials, I thought the United States was not. But another country that surprise me perhaps, again, I'm mistaken, was South Africa -- they have not signed or acceded ...

EVATT: South Africa, I think, has intention to join the Covenant but it's only since they were able to adopt their new constitution and put the legal system in order that they would be able to do it. So we expect that to happen, at least, we hope that will happen fairly soon.

LITTLEJOHNS: There are 140 countries ...

EVATT: 140, yes.

LITTLEJOHNS: What are you doing to get the other 45 members of the United Nations to come on board?

EVATT: Well, I suppose, the number one candidate in our view, would be China. It's the largest country. We already have India.

LITTLEJOHNS: And why is it not mentioned in connection with human rights?

EVATT: ... and China, recently announced its intention to sign both covenants -- civil and political rights, and economic, social and cultural rights. So, we are very hopeful that, before too long, China will be a party to both those instruments.

BASSIR-POUR: Can a country withdraw? Has there been a case of a country withdrawing?

EVATT: There was an attempt by one country to withdraw. But the opinion of the Committee and, I think, that's backed up by other authority, is that there is no

possibility -- no legal possibility -- to withdraw. The one exception might be, if every other Party to the instruments agreed to withdraw and in respect to the country I mentioned, it's now being -- the other countries are now being asked whether they agree. I don't know outcome of that.

BASSIR-POUR: Now I understand this country -- if I'm right, it was Jamaica -- wanted to withdraw. Was there a problem because we were told that in this session, because of so much complaint by non-governmental organizations against the Jamaican Government, the Government was thinking of withdrawing. Has this -- have you had clashes with information with the NGO's?

EVATT: Well, let me be clear on this. In terms of the Covenant itself, there has been one attempt to withdraw. Not by Jamaica but by Democratic People's Republic of Korea -- North Korea. The outcome of that is still uncertain. Jamaica, on the other hand, denounced the protocol under which individuals may make communications to the Committee.

BASSIR-POUR: I see.

EVATT: That is provided for in the protocol itself and they have done that. It became effective in January. But I have to say, that our backlog of work is such that we'll probably take two years or more to finish the cases that we already have listed from Jamaica.

BASSIR-POUR: You mentioned that North Korea -- tell us a little bit about how are civil rights protected in North Korea? Do you know something about that?

EVATT: I can't do that because we do not have any report. We haven't considered North Korea in the Committee.

LITTLEJOHNS: Can you ask for a report?

EVATT: Yes.

BASSIR-POUR: And you have no source of information outside of Pyongyang Government?

EVATT: We could have sources from NGO's, but we haven't yet taken up that Country to do anything except to ask for a report.

BASSIR-POUR: Doesn't the State have a sovereign right to withdraw from the Committee?

EVATT: The Committee's view is that the Covenant itself, being a human rights instrument and a universal human rights instrument, makes no provision for withdrawal once you ratify a covenant to enforce and implement human rights. You can't

withdraw. I must understand that the Covenant, of course, are also derived from the Universal Declaration of Human Rights. They are universal standards -- indivisible. And the Committee's published its own opinion on this matter towards the end of last year.

DEEN: Talking of the Universal Declaration of Human Rights, you're celebrating the 50th Anniversary this year.

EVATT: Yes.

DEEN: And there are some countries which are calling for a revision of the Declaration. What's your response to this?

EVATT: I think it would be like trying to rewrite the ten commandments, so whether Bill of Rights or the Universal Declaration of the Rights of Men, every French Republic know, I think -- it must stand as it is -- as an incredibly fine statement of our aspirations for ourselves and for everyone else. It's a wonderful document.

DEEN: Yes. But the argument is it's 50 years since it was set up and there are a lot of changes that have taken place and it does not reflect the ...

EVATT: Well, what sort of changes are you talking about?

LITTLEJOHNS: Well, the Ten Commandments ...

BASSIR-POUR: Specifically, one of the reports you dealt with in your last session was Finland. And I was surprised to see that Finland was criticized for discrimination against women as far as inequality of wages are concerned and lack of women in high positions. Now, one would think Finland would be way up there in respecting rights of women and other rights. So does this mean that other European countries are also ...

LITTLEJOHNS: Ms. Evatt, before you answer that ... This is World Chronicle, our guest is Elizabeth Evatt, a Human Rights Commissioner in Australia.

EVATT: Well, there are very few countries where we can say with confidence that women enjoy rights on a basis of full equality. And the problem in countries like Finland and developed western countries is very often this issue that you just mentioned -- wage differentials, earning differentials and a preponderance of women in low paid position which, of course, affix the average earnings of women -- and it's true that Finland has done quite a lot in that area but the data that they gave to us show that there's still quite a substantial gap between the earnings of women and men. And that will be true in virtually every country.

BASSIR-POUR: You said there are very few countries. Is there a shining example of a country where rights of everybody is respected?

EVATT: No. There are no example. We always say in the Committee,

there is no human rights paradise. Every country has some goals still to achieve.

LITTLEJOHNS: What about the countries at the bottom of the heap? Would you like to identify a few?

EVATT: Oh, no. Well, I mean, some countries still live with, shall we say, authoritarian governments without the rule of law and where people's life, liberty and security is by no means protected. Where the military or security forces seem to have extraordinary powers to kill and to detain and in those countries we cannot say that there's human rights, even at basement level. There are other countries and this is true where there is still the relics of cultural attitudes and practices particularly which affect the interactive rights by women and there are many of those countries who are doing their best to change the outlook. This still means that women don't enjoy even the right to life or security to the same extent as the men .....

LITTLEJOHNS: Speaking of the rights of women, Ms. Evatt, have you taken up in your Committee this problem of genital mutilation which is preoccupying the world to a great extent?

EVATT: We certainly have whenever we have a country -- an African Country or some others -- where this is known to be a practice. We certainly ask these questions and we maintain very firmly that the State itself has a responsibility to take positive action, to change attitudes and behaviour to stop this practice because it does threaten the life and well-being of young women.

BASSIR-POUR: Is there much resistance?

EVATT: Well, as far as I can say, the States that come to sit in the Committee always give lip service to the same principle. But what we feel is that they need to take more positive action. They would say, 'of course, we don't support this practice,' but that's not good enough. We want resources and effort to be put into education programmes, alternative employment programmes to the women who had carried out these procedures, and for the government to take the lead in making known to the people that this is not to be done.

BASSIR-POUR: So no government says, 'we're going to do this, this is part of our culture, there's nothing you can do about this'.

EVATT: Well, I haven't heard the government say that to the Committee.

BASSIR-POUR: So they all agree that it shouldn't be done, and yet it is.

EVATT: I would oh like to see it overcome.

LITTLEJOHNS: It's a cultural problem in many countries, isn't it?

EVATT: It is a cultural problem and we understand, on the best authority, that it is not supported by religious leaders but it's retained as a cultural practice. And no one can doubt that it is extremely hard to change the outlook on traditional practices of this sort. It is difficult. That's why we want governments to be positive and firm and do something about it.

DEEN: Some of the countries in the Middle East have been criticized for violation of human rights of migrant workers. Have they come before the Committee and has this come up?

EVATT: Yes, it's true. Not just in the Middle East but some of the areas of the world, as well, particularly the rights of migrant workers from your part of the world, from the Philippines, and Asia, and so forth. We often find that the young women involved have their passports taken away and their freedom of movement is curtailed and the contracts are not fulfilled and then, of course, there's the problem of trafficking in women in some countries. So, yes, we do pursue this question with States in order to discover to what extent the State could do something to protect the human rights of those people.

DEEN: They have come before your Committee -- the Middle Eastern countries?

EVATT: Some of them have, yes.

LITTLEJOHNS: Ms. Evatt, in going through the reports of your Committee's latest meeting, I noticed that you had been quite active on the question of freedom of expression and freedom of the press. How important an issue is this for your Committee and for the governments that respond to request for reports.

EVATT: I don't want to say that any one right is more important than another but in order to achieve, what we might call a human right outlook in the country, you have to have some basic things. You have to have democratic institutions and to have democratic institutions you can't have them without freedom of expression. Without the right of the citizen and the media to comment on and criticize government action, it's an essential element in democracy. And democracy itself is essential to ensure that all the rights that we've been talking about are enjoyed by everyone. So democracy -- the right of people to choose the government to be represented in government, the right of people to criticize and change government -- these are building blocks for human rights.

BASSIR-POUR: Is Algeria a State Party?

EVATT: Algeria is a State Party, yes.

BASSIR-POUR: And have they resubmitted any reports.

EVATT: Algeria has just submitted a written report which we have to examine later this year.

BASSIR-POUR: So you couldn't tell us anything about it?

EVATT: I can't tell you. It's just been received.

DEEN: How do you respond to the charges made by some Asian countries that they are being singled out by the West -- unfairly being singled out by the West?

EVATT: Singled out?

DEEN: Yes. For criticism of human rights violations.

EVATT: Well, we don't single out any country. The Human Rights Committee is critical of any country that fails to respect fully all the rights in the covenant. Those rights are set out there. The understanding of those rights are -- is pretty well universal these days. If the country doesn't meet its obligations, then we shall be critical of that country. Now, that is quite a different process than what may take place in a political organ like the Commission on Human Rights. That's outside our sphere of interest. We have an independent body, an expert body. Our only concern with is whether the State does what it promised to do.

BASSIR-POUR: What about homosexuality? Is that a subject that comes before the Committee?

EVATT: Yes. Yes.

BASSIR-POUR: Have you registered any progress?

EVATT: Yes, we have. The Committee has already, in an individual communication, found that laws which penalized homosexual behaviour violate the rights of the individual and the Covenant. So we have expressed our view on that and whenever a State comes before the Committee, which penalizes homosexual conduct, we comment and criticize that. We've done that twice at this session -- had two countries, Zimbabwe and Cyprus, both of which have these laws -- we have criticized that.

BASSIR-POUR: Do a majority of countries penalize homosexual conduct?

EVATT: I haven't got data. I only know that when we have the issue, we take it up and make a comment on that.

LITTLEJOHNS: And what was the response of the -- what were the responses of Zimbabwe and Cyprus.

EVATT: Well, they haven't responded because we've only just drafted our concluding comments and they will receive it. We ask questions...

LITTLEJOHNS: But in questioning them, do they confirm ....

EVATT: Yes, they confirm that there are these laws, yes.

LITTLEJOHNS: And did they attempt to justify these laws, on cultural grounds, perhaps? Religious grounds?

EVATT: In Zimbabwe, they did, yes.

DEEN: When you get individual complaints, do you protect the identity of the complainant?

EVATT: We protect if there's a need to protect. But in those cases, there's no need for confidentiality. If they were, and if a person were thought to be at risk because they complained to us, we would protect that. But otherwise, we try, as far as possible, to allow the methods that are coming before us to be -- not to keep secret.

DEEN: The individual themselves don't come before the Committee?

EVATT: Oh, no, no, no. We do it only on the papers. And, of course, the discussions are confidential. But the fact of the complaint and the outcome of the complaint we ...

DEEN: Are there any countries which have refused to appear before the Committee?

EVATT: In what respect?

DEEN: When there is something to report -- you do question them?

EVATT: Well, when individuals make a complaint, we deal with that only on the basis of recent submissions. So we hear -- we have the complaint in writing. The State responds in writing -- any further part of the complaint in writing. We deal with detail. But there are some States that have not cooperated with the Committee. They have failed to put in a response to the complaint. In that case, we have to decide the matter on the basis only of what the individual puts before us. So the State misses the opportunity to put its own viewpoint.

BASSIR-POUR: One of the States that you're investigating this time is Uruguay. Have they made any progress in investigating the violations that were committed during the military dictatorship?

EVATT: Very little progress there because of the law of the 'Kadushi Dada' -- I'm not sure what it is in English -- but it prevents prosecution or punishment of persons involved. The Committee's view is very firm. It is that, these violations must be investigated so that the truth about them be revealed. We regard that as a necessary measure for the sake of the victims and their families. We never fail, when Uruguay comes,

to repeat this message: you must carry out independent investigations to determine the truth of what happened to these individuals. Uruguay has, up to now, declined to carry out investigations in many of these matters.

BASSIR-POUR: Saying that?

EVATT: They have a referendum to support the law. And they say the people don't want these to be done. But this time -- and I don't want to say too much, because I don't want to interfere internally -- but this time, we detected, from the response of the State Party, that this issue is not dead yet. That the issue is still alive and there are new political developments, elections taking place in a year or two. We understood from them that the issue may, at some time, be reconsidered. So, we're very hopeful that that would happen.

BASSIR-POUR: As my colleague just mentioned, you don't, I mean, there's no real teeth in your work. You can't enforce anything. Do you use the media, for example, or talking about a country that's in violation, just accusing them publicly of doing or not doing something they should be doing?

LITTLEJOHNS: Ms. Evatt, there's very few seconds left.

EVATT: We've worried about that kind of confrontation, but we hope the media will report on their activities so that what we do is known widely.

LITTLEJOHNS: Well, we hope a lot of people is watching this programme. Ms. Evatt, that's all the time we have. Thank you for being with us on this edition of World Chronicle. Our guest has been Elizabeth Evatt, a Human Rights Commissioner in Australia. She was interviewed by Thalif Deen of *Inter Press Service* and Afsane Bassir-Pour of *Le Monde*.

I'm Michael Littlejohns. Thank you for joining us. We invite you to be with us for the next edition of **World Chronicle.**